

Title 49 CFR, Part 382

Controlled Substance and Alcohol Testing

Most drivers of commercial motor vehicles (CMV) engaged in interstate and intrastate transportation are subject to controlled substances and alcohol testing under the Code of Federal Regulations, Title 49 Parts 40 and 382. Employers are required to have a program and procedures in place to insure that all drivers who are required to possess a commercial drivers license (CDL), *and* who operate a commercial vehicle, are test for drug and alcohol use. The purpose of controlled substance testing is to reduce highway accidents that result from driver use of these substances.

A commercial motor vehicle (CMV)

A commercial motor vehicle:

- Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating or more than 10,000 pounds; or
- Has a gross vehicle rating of 26, 001 pounds; or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in transportation of hazardous materials which requires a placard on the vehicle.

This law applies to:

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- For hire and private companies;
- Federal, state and local governments;
- Civic and church organizations;
- Farmers and custom harvesters unless exempted from CDL;
- Apiarian industries (beekeeping)

Alcohol Definitions

“**Alcohol**” is the intoxication agent in beverage alcohol, ethyl alcohol, or low molecular weigh alcohol including methyl and isopropyl alcohol.

“**Alcohol use**” is the consumption of any beverage, mixture or preparation (including medication) that contains alcohol.

Alcohol Prohibitions

The alcohol rule prohibits any alcohol use that could affect performance of a safety-sensitive function, including:

- Reporting for duty or remaining on duty o perform safety-sensitive functions with alcohol concentration of 0.04 BAC or great;
- Use while performing safety-sensitive functions;
- Use during the 4 hours before performing safety-sensitive functions;
- Possession of alcoholic substances, unless transported and manifested as part of a shipment.
- Use during 8 hours following an accident, or until driver undergoes a post-accident test, whichever occurs first.
- Refusal to take a required test.

Tests Required

Drivers required to have a commercial drivers license (CDL) are subject to:

- Pre-employment testing
- Post-accident testing
- Random testing
- Reasonable suspicion testing
- Return to duty
- Follow-up

Controlled Substance Testing

Controlled substances:

- Marijuana
- Cocaine
- Opiates
- Amphetamines
- Phencyclidine

Drug Prohibitions

A driver may not report for duty (or remain on duty) to perform safety-sensitive functions if:

- The driver uses any of the above-mentioned drugs unless prescribed by a doctor who has told the driver that the use will not adversely affect the driver's ability to operate a CMV safely.
- The driver tests positive for controlled substance use; or
- The driver refuses to take a required test.

Consequences

A driver who violates any of the above provisions *must*:

- Not perform, nor be permitted to perform, a safety-sensitive function
- Be referred to a substance abuse professional (SAP) for evaluation to determine what assistance is needed.
- Undergo a return-to-duty test for alcohol or drugs resulting in a verified negative result
- Be subject to unannounced follow-up testing after returning to work.

Access to Records

An employer **must obtain**, pursuant to a driver's written consent, the driver's alcohol and drug compliance records from previous employers. A previous employer, pursuant to a driver's written consent, **must release** a driver's alcohol and drug compliance records to a prospective employer. Carriers **must make** all records related to the administration of their testing programs and individual test results available to agencies with regulatory jurisdiction. Requests may be placed in drivers qualification file.

Medical Review Officer

A carrier must use a Medical Review Officer (MRO) to review and verify individual controlled substance test results. It is the MRO who must notify the carrier whether a driver's drug test was positive or negative, and which controlled substance tested positive.

Education Materials and Company Policy

Employers must provide educational materials to each driver explaining the requirements and employer policies and procedures with respect to drug and alcohol testing, and shall ensure all persons who supervise drivers receive 60 minutes training on alcohol and 60 minutes training on substance abuse as required in Part 382.

Carrier Responsibility

Parts 40 and 382 standards allow carriers to contract with outside services and consortiums who assist with administration of the carrier's program. Frequently contracted services include company policy development, random selections, collection site, and testing services. Responsibility for compliance is ultimately the responsibility of the employer.

Employers are required to test for the following

For additional assistance contact: Utah Department of Transportation, Motor Carrier Division (801) 965-4243. This fact sheet is intended as a resource. It is not intended to explain all requirements of Utah Law. Contact our office for additional assistance 07/04

PRE-EMPLOYMENT RELEASE FOR INFORMATION FROM PREVIOUS EMPLOYER OF ALCOHOL AND CONTROLLED SUBSTANCE TESTING

To: _____ Date: _____

The person identified below is seeking employment with this company, as a driver who is subject to the alcohol/controlled substance testing provisions of the Federal Motor Carrier Safety Regulations of 49 CFR Part 40.25 and Part 382.413. Pursuant to the aforementioned codes, with the driver's written consent, we request the results of related testing of this individual while in your control. The Federal Regulations mandate that we receive your reply within 14 days from request.

REQUESTED PERSONS INFORMATION

NAME: _____ SSN: _____

ADDRESS: _____

CDL Information: _____
Number state class endorsements

RELEASE: I hereby authorize release of information to the inquiring named company.

Driver Signature Date
TEST RESULTS: Please provide the results and date of most recent drug/alcohol tests, or indicate that driver was not subject to requirements.

Alcohol (0.04 or higher) Date: _____ Result: Yes _____ No _____

Alcohol Refusals Date: _____

Controlled Substance Date: _____ Result: Neg _____ Pos _____

Controlled Substance Refusals Date: _____

Other violations of DOT Drug & Alcohol testing regulations Yes _____ No _____
Explain _____

Reason not subject to drug/alcohol testing _____

PLEASE RETURN THIS INFORMATION TO: (please mark mail confidential)

NAME _____ TITLE _____

COMPANY _____

ADDRESS _____

If you would prefer to reply by telephone, call: _____
(give information to listed person please)

FAX: _____

CONTROLLED SUBSTANCES and ALCOHOL USE AND TESTING

PROGRAM IMPLEMENTATION CHECKLIST

- ☐ Do you have at least one person familiar with the controlled substances and alcohol testing requirements?
- ☐ Do you have written company policies and procedures describing your company's alcohol and its implementation?
- ☐ Have you informed employees in writing of the company's substance use and abuse policy and its implementation?
- ☐ Have you provided educational materials relating to the effects of alcohol and controlled substance use and abuse to your affected employees?
- ☐ Have you identified which job positions need to be tested?
- ☐ Have you selected qualified personnel to implement and monitor your program?
- ☐ Does your program include testing for five prohibited substances: marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP)?
- ☐ Have you established or contracted for a secure specimen collection site with appropriately trained personnel and clearly written procedures?
- ☐ Have you established or contracted with a certified laboratory to analyze specimens?
- ☐ Have you designated a qualified alcohol-testing technician to conduct alcohol tests?
- ☐ Does your program include pre-employment controlled substance testing?
- ☐ Does your program include random, reasonable cause, post-accident, return to duty and follow-up testing for alcohol and controlled substances?
- ☐ Have you identified substance abuse professionals and rehabilitation resources for referral?
- ☐ Have you made arrangements for a minimum 120 minutes of training for supervisors required to make reasonable suspicion determinations?
- ☐ Have you made record keeping and reporting provisions? Do they protect the right to privacy and prevent unauthorized release of test results?

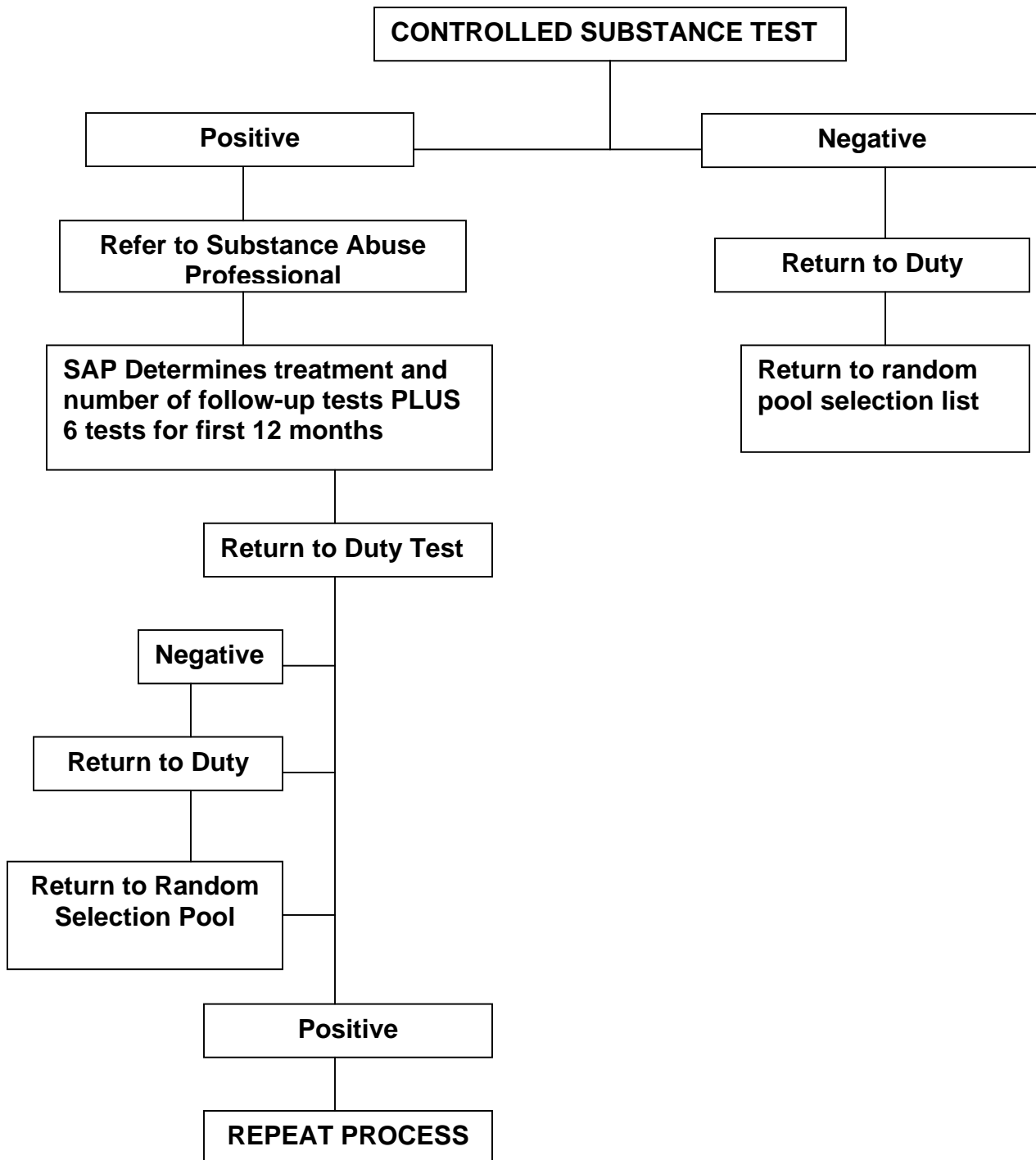
For additional assistance contact:

Utah Department of Transportation, Office of Motor Carriers
Federal Motor Carrier Safety Administration - Utah Division

(801) 965-4243
(801) 963-0096

CONTROLLED SUBSTANCE FLOW CHART

Part 382



CANNOT USE DRIVER UNTIL A NEGATIVE TEST HAS BEEN RECEIVED!